

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

In the Matter of)	
)	
Revision of the Commission's Rules)	
To Ensure Compatibility with Enhanced)	
911 Emergency Calling Systems)	CC Docket No. 94-102
)	
Illinois Valley Cellular RSA 2-I Partnership)	
Illinois Valley Cellular RSA 2-II Partnership)	DA 02-1540
Illinois Valley Cellular RSA 2-III Partnership)	
Missouri RSA No. 7 Limited Partnership)	
d/b/a Mid-Missouri Cellular)	
Public Service Cellular, Inc.)	
Joint Petition for Reconsideration)	

REPLY TO COMMENTS TO
JOINT PETITION FOR RECONSIDERATION

To: The Wireless Telecommunications Bureau

I. Introduction

Illinois Valley Cellular RSA 2-I Partnership, Illinois Valley Cellular RSA 2-II Partnership, and Illinois Valley Cellular RSA 2-III Partnership (collectively "IVC"),^{1/} Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri Cellular ("MMC"),^{2/} and Public Service Cellular, Inc. ("PSC")^{3/} (collectively "the Carriers"), by their attorneys and pursuant to Section 1.106 of the Commission's Rules, hereby reply to comments filed with respect to the limited

^{1/} Illinois Valley Cellular RSA 2-I Partnership provides cellular service under call sign KNKN583; Illinois Valley Cellular RSA 2-II Partnership provides cellular service under call sign KNKN582; Illinois Valley Cellular RSA 2-III provides cellular service under call sign KNKN581.

^{2/} Mid-Missouri Cellular provides cellular service under call signs KNKN595 and KNKR207.

^{3/} Public Service Cellular, Inc. provides cellular service under call signs KNKA415, KNKN872, KNKN913, KNKN883, KNKN687, KNKN932, KNKN934, and KNKN976. In addition, PSC holds licenses for personal communications services ("PCS") stations KNLG210, KNLH422, and KNLH421.

reconsideration of the Wireless Telecommunication Bureau's ("Bureau") *Order*^{4/} sought by the Carriers in the above-captioned proceeding. The Carriers specifically sought reconsideration of the portion of the *Order* requiring that by December 31, 2003, the Carriers either turn off their TDMA networks completely, or proceed to implement a TDMA-TTY solution.^{5/} In reply, the following is respectfully shown:

II. Background

The scope of the Carrier's reconsideration was extremely limited. The Carriers expressly stated that they were *not* seeking a waiver of the requirement that they deploy digital TTY compatible networks by the December 31, 2003 deadline.^{6/} Rather, they have sought reconsideration of the requirement that *in addition to deploying TTY-compatible digital networks* the existing TDMA systems must *also* be made TTY-compatible or completely "turned off" by December 31, 2003. Grant of the limited reconsideration being sought would in no way limit access to digital TTY service on the Carrier's networks since the Carriers expressly stated that any TTY users seeking digital service would be provided with such service on the new digital system. The fact that the TTY subscriber would be required to use the new digital system instead of the old system which would be gradually phased-out would in no way prejudice any such subscriber or frustrate the Commission's rules which require that Carriers support digital TTY service on their networks. Significantly, denial of the limited reconsideration would do nothing to make any additional TTY digital service available as turning off the TDMA network

^{4/} In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, DA 02-1540, *Order*, (rel. June 28, 2002), ("*Order*").

^{5/} *Id.*, para 22 and note 52.

^{6/} Carriers' Joint Petition for Reconsideration at page 3.

makes it no more available for digital service than allowing it to continue to be operated *in conjunction with* a new TTY-compatible digital service.

III. Comments

Four sets of comments were filed. Those of the Rural Telecommunications Group, the Rural Cellular Association and ACS Wireless, Inc. were fully supportive of the Carriers' petition. Disappointingly, the fourth set of comments, filed jointly by National Emergency Number Association ("NENA"), the Association of Public-Safety Communications Officials-International, Inc. ("APCO") and the National Association of State Nine One One Administrators ("NASNA") (collectively the "Public Safety Organizations") opposed the Carrier's petition.

The Public Safety Organizations' filing appeared to indicate that they were not satisfied with these Carriers devoting *millions* of dollars to implement new TTY-compatible digital networks, but were seeking to impose additional costs upon the Carriers by requiring that the Carriers migrate all of their existing TDMA subscribers, *none of which have expressed any need or desire to utilize TTY devices*, to the new digital network *or* to waste further capital on converting the old TDMA network to TTY-compatibility *in addition to* the construction of a totally new TTY-compatible network. The Public Safety Organizations avoided any discussion of the equities of taking this position or even addressing the fact that whether the TDMA systems were allowed to continue operating in a non-TTY-compatible mode or turned off, would make no difference to a digital TTY user as, in either case, the TDMA network would *not* be available for TTY use. Again, any TDMA user seeking digital TTY service would be moved to the Carrier's TTY-compliant digital network. Accordingly, the issue is *not* whether digital TTY

service would be available; it clearly would be. Rather, the issue is whether the Carriers, having spent millions of dollars to provide a TTY-compliant digital network, should also be forced to retrofit their existing digital networks. There is no supportable reason for so requiring.

The Public Safety Organizations imply that there are statutory provisions that would preclude the grant of the “open-ended waiver sought by Petitioners”.^{2/} Significantly, the Carriers are not seeking authority to install new network features or functionalities. Rather, they are seeking to be able to continue to operate the TDMA network that was deployed in full-compliance with then-applicable FCC rules. Accordingly, the cited reference to Section 251(a)(2) is inapplicable. Moreover, since grant of the limited reconsideration sought herein would only provide relief where the Carriers had deployed an alternative digital technology that was TTY-compatible, the Carriers respectfully submit that they would be in compliance with the cited Section 255(c) requirement for deploying accessible service. There is no support offered by the Public Safety Organizations for the proposition that the Carriers must deploy more than one digital TTY-compliant network.

In the subject *Order* the Bureau granted the Carriers' request for waiver of the June 30, 2002 deadline for making their existing TDMA networks TTY-compliant, recognizing that the industry is moving away from TDMA as a cellular digital standard. In so doing, it acknowledged that the costs spent to migrate existing rural TDMA networks (which have never had a request for TTY-compatible service throughout their operating history of more than a decade) would be wasted capital at a time when the small carriers are facing unexpected costs associated with entire network migration to a new digital technology, coupled with the costs of meeting multiple other unfunded federal mandates such as CALEA, WLNP and E911 Phase II.

^{2/} See, Public Safety Organizations Comments at Page 2, citing Sections 255(c) and 251(a)(2) of the Act.

While the *Order* acknowledges this reality, it proceeds to conclude that even if the Carriers have deployed a new digital TTY-compatible network before December 31, 2003, the Carriers must nonetheless either turn off their existing TDMA networks or spend the money at that time to migrate those networks (in addition to the newly constructed TTY-compatible digital network) to TTY compatibility. The Carriers respectfully submit that the requirement to "turn off or convert" the TDMA networks by a date certain (regardless of whether the Carriers have deployed an alternative TTY-compatible digital network) is not supported by the facts. Nor would such a requirement serve in any way to further the goals of the Commission's digital TTY-compatibility rules. Accordingly, the Carriers seek reconsideration of the "turn-off or convert" requirement of the *Order*.

IV. Requiring the Carriers to Turn-off Their TDMA Networks By a Date Certain Would Adversely Impact Their Ability to Provide Service

The Carriers' TDMA systems provide service to both home and roaming subscribers. The Carriers are facing the substantial (and unanticipated) costs associated with completely over-building their existing digital networks with a new digital technology simply because the large nationwide carriers made the decision to move away from the TDMA digital technology. However, that technology is presently meeting the needs of a substantial portion of the Carriers' existing subscriber base. Requiring the Carriers to move these TDMA customers to a new system, for absolutely no reason, would add a further substantial, and totally unnecessary, cost

burden on the Carriers.^{8/}

In addition, as the Carriers explained in their petition, the continued operation of their TDMA networks was essential not only from an economic standpoint, but in order to make sufficient spectrum available to enable the Carriers to overlay a TTY-compatible digital solution. Since their decisions to deploy TDMA in the first place were largely influenced by the fact that their major roaming partners had deployed that digital technology,^{9/} even if all home subscribers were moved to the new TTY-compliant digital system, the Carriers would still need to meet the needs of their major roaming partners, who, while proceeding to deploy their own new digital technologies, have not announced any date by which they intend to cease the sale of TDMA phones or the operation of their TDMA networks. The Carriers explained that there is not sufficient spectrum available for them to both deploy a new TTY-compatible digital technology and continue providing service to TDMA mobiles in an analog-only mode.

The Public Safety Organizations did not address this issue.

^{8/} It is unlikely that existing subscribers would be willing to pay for new phones simply to be able to continue receiving digital service from the Carriers. Accordingly, the costs associated with these conversions would need to be borne by the Carriers. While these thousands of subscribers could continue to operate their TDMA phones in the analog-only mode, the fact that underlying the Commission mandate to make digital service available to TTY subscribers is the realization that there are inherent differences between the digital and analog services. *See, Memorandum Opinion and Order*, CC Docket No. 94-102, RM-8143, 63 Fed. Reg. 2631 (January 16, 1998), ¶ 53 (stating in part that digital phones offer additional choices and features which should be available to TTY users.) Just as the Commission is concerned over the unavailability of digital service on the TDMA network *just in case* a TTY user wanted digital service, the Bureau must acknowledge that relegating thousands of actual existing TDMA users to an “analog-only” mode would not be a viable alternative.

^{9/} *See, e.g.*, Petition of Public Service Cellular, Inc. Waiver of Section 20.18(c) of the Commission’s Rules and Deadlines Established in the Fourth Report and Order, CC Docket No. 94-102 (filed Dec. 21, 2001).

V. The Availability of TDMA TTY-Complaint Handsets is Far From Certain

Supported by the Declaration of Ms. Zentgraf, the Carriers also questioned whether there would even be TTY-compatible TDMA handsets available at commercially reasonable rates in December 31, 2003. Of course, absent such handsets, there can *never* be *any* benefit realized by requiring the upgrade of the TDMA network to TTY-compatibility.

Again, the Public Safety Organizations did not address this issue.

VI. Discussions With the Public Safety Organizations

Given the foregoing, the undersigned counsel for the Carriers contacted Mr. James R. Hobson, counsel for NENA and NASNA and explained the foregoing. Mr. Hobson indicated that NENA and NASNA had not understood that the Carriers were only seeking reconsideration of the requirement to convert the TDMA system contingent upon the timely deployment of a TTY-compliant digital network. Accordingly, we asked that they re-read the Carrier's Petition and advise whether, in that context, they still posed any objections. The undersigned has not had any indication as to what, if any, change there has been in NENA's and/or NASNA's position.

The undersigned counsel also made an effort to contact counsel for APCO. The phone message was never returned and the undersigned has no idea as to whether APCO's objections are also attributable to a mis-reading of the requested relief. In any event, if the Public Safety Organizations' objections were based upon a misreading of the Carrier's request, they should be immediately withdrawn. If, however, their position is as stated in their objection, notwithstanding their clear understanding of the nature of the relief being sought by the Carriers, it cannot be supported.

VII. Conclusion

The Carriers submit that, so long as TTY digital service can be provided in the Carriers' markets by the Bureau's December 31, 2003 deadline, there is no purpose served by further requiring that the non-compatible TDMA systems be "turned off" at that time. There are no comments in the record to support any other finding. Moreover, as the Carriers have demonstrated, the continued operation of the TDMA systems is critical to their ability to have sufficient spectrum to meet the needs of the imbedded nationwide TDMA home and roamer subscriber base until such time as market conditions obviate that need. Accordingly, the Carriers respectfully request that the Bureau reconsider its decision to require the Carriers to "turn-off" or make their TDMA systems TTY-compatible by December 31, 2003, where a TTY-compatible digital network has been placed in service by that date.

Respectfully Submitted,

Illinois Valley Cellular RSA 2-I Partnership
Illinois Valley Cellular RSA 2-II Partnership
Illinois Valley Cellular RSA 2-III Partnership
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d/b/a Mid-Missouri Cellular
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October 11, 2002

By: /s/ Michael K. Kurtis

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CERTIFICATE OF SERVICE

I, Ruth E. Garavalia, a secretary with the law firm of Kurtis & Associates, P.C., do hereby certify that I have this 11th day of October, 2002, had copies of the foregoing "REPLY TO COMMENTS TO JOINT PETITION FOR RECONSIDERATION OF ILLINOIS VALLEY CELLULAR RSA 2-I PARTNERSHIP, ILLINOIS VALLEY CELLULAR RSA 2-II PARTNERSHIP, ILLINOIS VALLEY CELLULAR RSA 2-III PARTNERSHIP, MISSOURI RSA NO. 7 LIMITED PARTNERSHIP d/b/a MID-MISSOURI CELLULAR and PUBLIC SERVICE CELLULAR, INC." sent postage pre-paid first class U.S. mail to the following:

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